IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

TUESDAY, THE 21ST AUGUST 2007 / 30TH SRAVANA 1929

WP(C).No. 17733 of 2005(J)

PETITIONER:

SAROJINI.K., W/O.LATE
K.GOPALAKRISHNAN, THAIKKAD PUTHEN VEEDU,
POONTHOPPU WARD, AVALOOKUNNU P.O.,
ALAPPUZHA-6.

BY ADV. SRI.K.K.SATHEESH

RESPONDENTS:
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1. UNION OF INDIA REPRESENTED BY THE
SECRETARY, MINISTRY OF HOME AFFAIRS,
FREEDOM FIGHTERS' DIVISION,
LOK NAYAK BHAVAN, KHAN MARKET,
NEW DELHI-110 003.

2. STATE OF KERALA, REPRESENTED BY
THE SECRETARY, GENERAL ADMINISTRATION
(FFP.A) DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

3. THE DISTRICT COLLECTOR,
ALAPPUZHA.

BY ADV. SRI. PARAMESWARAN NAIR, ASST. S.G.
GOVERNMENT PLEADER SRI. K.V. MANOJKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 21/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 17733/2005

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE PENSION PAYMENT ORDER IN RESPECT OF PPO NO. KEF. 12657 BY THE AR. ACCOUNTS OFFICER, OFFICE OF THE AG, (A&E) KERALA DT. NIL.

EXT.P2. COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER FOR THE GRANT OF SSS PENSION TO THE RESPONDENTS DT. 20/4/98.

EXT.P3. COPY OF THE PKC BY SRI. KUNJAN SUKUMARAN DT. 20/4/98.

EXT.P4. COPY OF THE COMMUNICATION DATED 25/7/2001 BY THE R3 TO THE PETITIONER.

EXT.P5. COPY OF THE REPRESENTATION BY THE PETITIONER DT. 13/4/05.

EXT.P6. COPY OF THE PKC BY SRI. H.K. CHAKRAPANI DT. 14/3/2005.

EXT.P7. COPY OF THE NARC BY THE CJM COURT ALAPPUZHA.

EXT.P8. COPY OF THE AFFIDAVIT DULY ATTESTED BY THE JUDICIAL IST CLASS MAGISTRATE -II, ALAPPUZHA DTD. 5/4/05.

True copy

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T.R. RAMACHANDRAN NAIR, J.

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WP(C).No. 17733 OF 2005-J.

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Dated this the 21st day of August, 2007.

J U D G M E N T

The petitioner is an applicant for grant of Swathantrata Sainik Samman pension. Her late husband was a freedom fighter who had actively participated in the Punnapra-Vayalar movement during the freedom struggle. An arrest warrant was issued against him by the Special Magistrate Court, Alappuzha in case No.P.E.7/1122 M.E. and in order to evade the arrest he had gone underground for a period of about 9 months from October, 1946 to July, 1947. He was granted pension by the State as per the order dated 8.6.1993. After his death on 12.12.1994 the petitioner is getting the dependent family pension under the said scheme. This is evidenced by Ext.P1.

2. Ext.P2 is the application dated 20.4.1998 seeking grant of SSS pension. Ext.P3 is the personal knowledge certificate issued by a prominent freedom fighter Sri.Kunjan Sukumaran. By Ext.P4 the petitioner was asked to produce further materials by the District Collector. In response to the same the petitioner submitted Ext.P5 representation and produced Ext.P6 certificate issued by Sri.H.K.Chakrapani along with it. The petitioner has also produced Ext.P7 non-availability of records certificate from the Chief Judicial Magistrate Court, Alappuzha. Ext.P8 is the affidavit duly attested

by the Judicial First Class Magistrate-II, Alappuzha. Since no action is seen taken by the respondents this writ petition is filed.

3. In the counter-affidavit filed by the Union of India it is stated that they are awaiting the mandatory verification and recommendation report from the State Government.

4. In the counter-affidavit filed by the 2nd respondent an objection has been taken to the personal knowledge certificate issued by Sri.V.K.Karunakaran and also about the non-availability of records certificate from the Chief Judicial Magistrate Court, Alappuzha. The learned counsel for the petitioner submits that in the light of Ext.P6 certificate issued by Sri.H.K.Chakrapani and in the light of Ext.P3 already produced which is the certificate issued by Sri.Kunjan Sukumaran, the claim of the petitioner is allowable. It is further submitted that the requirement for a fresh non-availability of records certificate has been satisfied by producing Ext.P7.

5. The objection taken in respect of Ext.P7 appears to be not material. The application is seen submitted before the Chief Judicial Magistrate Court, Alappuzha with reference to case No.P.E.7/1122. It is clearly certified that the records of the year 1122 have already been destroyed and hence the petition is rejected.

6. In the light of the fact that the State pension has been granted to

the late husband of the petitioner which is even now continued to the petitioner there is no justification in not recommending the case for sanction of pension. It is upto the 1st respondent to take a final decision. Therefore, there will be a direction to consider Ext.P5 along with the documents produced namely, Exts.P6 to P8 by the 2nd respondent and to forward the verification cum entitlement report with appropriate recommendation to the 1st respondent within a period of six weeks from the date of receipt of a copy of this judgment. On receipt of the same, the 1st respondent shall consider the application along with the documents annexed and also the report of the State Government and pass appropriate orders regarding the claim for SSS pension within a further period of two months. The entitlement of the petitioner for arrears from the date of receipt of Ext.P2 application dated 20.4.1998 also will be considered by the first respondent in the event of sanction of the pension.

The writ petition is disposed of as above. No costs.

T.R.RAMACHANDRAN NAIR, JUDGE.

Kvs/-